AP 5530 STUDENT RIGHTS AND GRIEVANCES

References:
Education Code, Section 76224(a);
Title IX, Education Amendments of 1972;
Sections 504 and 508 of the Rehabilitation Act of 1973;
Americans with Disabilities Act of 1990;
ACCJC Accreditation Eligibility Requirement 20;
ACCJC Accreditation Standard IV.D.

Note: Complaints under Section 504, Section 508, and/or the Americans with Disabilities Act are to be made to the Section 504/508/ADA Coordinator in the Disabled Student Programs and Services Office or to the Diversity/Compliance/Title IX Officer in the Human Resources Office. Complaints of sexual harassment and other illegal discrimination are to be made to the Diversity/Compliance/Title IX Officer in the Human Resources Office or the Vice President of Human Resources.

If a student files a grievance under this procedure that includes an allegation of unlawful discrimination, including harassment or retaliation, the grievance, or portion of the grievance, will immediately be referred to (i) the Diversity/Compliance/Title IX Officer or to the Vice President of Human Resources or designee per AP 3435, "Intake and Processing of the Complaint," or to (ii) the Cerritos College Section 504/ADA Coordinator per Administrative Procedure 3412, for attempted informal resolution or investigation.

STUDENT GRIEVANCE PROCEDURES
A student of the College may address grievances as applied to and regarding academic, administrative, and instructional matters relating to students, and including, but not limited to, any grievance dealing with any academic or management employee of the District.

A grievance shall herein be defined as any act depriving a student of any of the rights set forth in the statement of “Student Rights and Responsibility,” or any state, federal, or local codes. Grades and grading grievances are addressed within this administrative procedure. Student should refer to “Student Grade Grievance Procedure.”

The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:
- The statement contains facts which, if true, would constitute a grievance under these procedures;
- The grievant is a student, which include applicants and former students;
- The grievant is personally and directly affected by the alleged grievance;
- The grievance was filed in a timely manner;
• The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

If the grievance does not meet each of the requirements, the Office of Student Conduct and Grievance or ASCC Chief Justice or designee shall notify the student in writing of the rejection of the request for a grievance hearing, together with the specific reasons for the rejection and the procedures for appeal.

GRIEVANCE PROCEDURE (EXCEPT GRADES AND GRADING, SEXUAL HARASSMENT, AND OTHER ILLEGAL DISCRIMINATION):

STEP I - INFORMAL ACTION

A. The student with a grievance shall first attempt to resolve the matter by informal discussion with the employee(s) involved.

B. If the problem is not resolved in step I-A, the student shall then attempt to resolve the matter by informal discussion with the person at the lowest level of supervisory authority for the person with whom there is a complaint.

C. If the grievant still believes the issue has not been resolved satisfactorily after Step I-B, a student Statement of Grievance Form may be obtained from the Office of Student Conduct and Grievance. After completion of the Form, specifying the time, place, nature of the complaint and remedy or correction requested, it should be submitted to the Coordinator of Student Conduct and Grievance who will send a copy of the written statement to the ASCC Supreme Court Chief Justice and the Vice President of Academic Affairs. This statement must be submitted within 30 instructional days after the grievant has become aware of the act or condition on which the complaint is based. An instructional day is defined as any day Monday through Friday that all normal college business is conducted, both in the classroom and administrative offices. All weekend days and college holidays are excluded.

D. The ASCC Chief Justice or Court designee shall attempt to resolve the problem through informal meeting and discussion among the pertinent parties while remaining neutral on all issues involved. This informal meeting and discussion is intended to include the levels of management or administration concerned with the problem and should be completed within ten instructional days, as such days are defined herein. In the event the informal procedure fails, the formal procedure may be implemented.

STEP II - FORMAL ACTION

A. PRELIMINARY STEPS

1. If the grievant does not believe the grievance has been resolved, the grievant may request Step II-Formal Action through the ASCC Chief Justice. The Chief Justice
upon receiving the request of the grievant shall call a meeting of the Student
Grievance Hearing Committee. The Hearing Committee will be composed in the
following manner:

- ASCC Chief Justice or designee and two Court Justices or designees,
- the Vice President of Academic Affairs or administrative designee,
- the Faculty Senate President or Senate designee, and
- one Faculty Senate member, chosen by the Faculty Senate.

If replaced per section II.A.5. herein, the ASCC Chief Justice or designee or Court
Justices or designees substitute(s) shall be appointed by the ASCC Court.

2. The Chief Justice or designee shall serve as the Hearing Committee Chair, but shall
have no vote in committee decisions. The five voting members of the Hearing
Committee may be selected within the first six weeks of the academic year. Names
selected by the Faculty Senate are to be submitted to the Chief Justice. Members
of the Committee are to serve for an academic year.

3. The Vice President of Academic Affairs or administrative designee shall serve as
Hearing Committee Executive Secretary. The Executive Secretary, a voting
member of the committee, shall be responsible for keeping necessary records of
committee hearings and assist the ASCC Chief Justice in the conduct of the
hearing.

4. Grievance Committee members are to deal with all grievances in a confidential
manner, except when both parties agree to a public hearing or otherwise required
by law.

5. No person shall serve as a member of a Hearing Committee if that person has been
personally involved in any matter giving rise to the grievance, has made any
statement on the matters at issue, or could otherwise not act in a neutral manner.
Any party to the grievance may challenge for cause any member of the hearing
committee prior to the beginning of the hearing by addressing a challenge to the
Hearing Committee Chair, who shall determine whether cause for disqualification
has been shown. If the Hearing Committee Chair determines that sufficient
grounds for removal of a member of the committee have been presented, the
Hearing Committee Chair shall remove the challenged member or members and
request a substitute from the original appointing constituent group.

B. FORMAL HEARING

The Hearing Committee shall conduct its proceedings according to the following
procedures:

1. The Hearing Committee must meet within 15 instructional days after informal action
has been completed and the grievant has requested a formal hearing.
2. The Chair must notify the parties involved within five instructional days before the hearing of the date, time, and location of the hearing and must include a copy of the written complaint, a copy of the Statement of Student Rights and Responsibilities, and copy of the Grievance Procedure.

3. Four members shall constitute a quorum by which Hearing Committee business may proceed. The quorum must include at least one student member, one faculty member, and one administrative member.

4. The members of the Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.

5. Both parties shall have the right to present personal statements, testimony, evidence, and witnesses. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted. Unless the Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant or grievants shall make the first presentation, followed by the respondent or respondents. The grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the grievant or grievants to prove by substantial evidence that the facts alleged are true.

6. Each party shall have the right to be present, to be accompanied by the person of his or her choice (who may not participate in the hearing), and to question witnesses who are present. In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the committee agree to the contrary.

7. The hearing shall be recorded by the Coordinator of Student Conduct and Grievance, either by audio recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. The audio or stenographic recording shall remain in the custody of the District, at all times, unless released to a professional transcribing service. Any recognized party to the grievance may request a copy of the recording.

8. The Hearing Committee Chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name.

9. The Hearing Committee shall discuss the stated grievance(s), hear testimony, examine witnesses, and receive all available evidence to the charge.

10. The hearing shall be closed to the public unless otherwise agreed upon in writing by both parties.
11. The Hearing Committee shall make decisions in private. The Hearing Committee shall write up findings and decisions. Copies of findings and decisions, including majority and minority reports, are to be sent to each party and the appropriate Vice President. The Hearing Committee’s decision(s) shall be final unless appealed.

12. A recording of the proceedings shall be kept in a confidential file in the Office of Student Conduct and Grievance and shall be available at all times to parties directly involved. All documents, communications, and records dealing with the processing of a grievance will be filed separately from the personnel files of the participants. After a period of four years, the grievance file shall be destroyed.

13. Reprisals of any kind will not be taken by the District or any of its agents against any party of interest or any other participant in the grievance procedure by reason of such participation.

14. Evidence and testimony given in each case presented shall not be the sole cause of initiating or filing further grievances.

15. If the grievant does not act within the time limits provided herein, the ability to proceed with the grievance shall be terminated and no further action will be taken.

16. The number of instructional days indicated at each step herein should be considered a maximum and every effort must be made to expedite the process. Time limits may be extended by mutual consent in writing or by decision of the Hearing Committee.

17. The Hearing Committee should attempt to reach a decision by discussion and consensus on a workable solution. Voting should be a last course of action.

18. If in the course of the proceedings a student graduates before a solution is found, the student shall not be denied full consideration under this policy. A student may also submit a grievance after graduation if the grievance did not become known until that time. However, it must be submitted within 30 instructional days after the grievant should have reasonably become aware of the act or condition on which the complaint is based.

19. If a party wishes to formally appeal a recommendation of the Hearing Committee, an appeal must be submitted within ten instructional days to the appropriate Vice President, provided the appropriate Vice President is not a direct party to the grievance. If the appropriate Vice President is a direct party to the grievance, and either party is dissatisfied with the recommendation of the Hearing Committee, an appeal may be submitted to a Vice President/Assistant Superintendent not a direct party to the grievance.
2. Upon receiving the findings and recommendations of the Hearing Committee, and after examination of the appeal as requested by either party, the appropriate Vice President or alternate may accept or reject the Hearing Committee’s decision.

3. If the appropriate Vice President or alternate rejects the Hearing Committee’s decision, he or she shall submit his or her decision with the stated reasons for objections to the Hearing Committee within ten instructional days. The Hearing Committee shall within ten instructional days reconsider its decision(s) and submit its decisions to the appropriate Vice President for a final decision.

4. The appropriate Vice President shall transmit his or her final decision to the parties within ten instructional days.

5. An appeal of the appropriate Vice President’s decision may be submitted to the President/Superintendent by either party within five instructional days of the appropriate Vice President’s decision. The President/Superintendent shall transmit his or her final decision to the parties within ten instructional days.

6. An appeal of the President/Superintendent’s decision may be submitted to the Board of Trustees by either party within five instructional days of the President/Superintendent's decision. The Board of Trustees may review an appeal for two consecutive regular Board meetings before making a final determination of the matter at the District level.

7. The President/Superintendent or designee, or the Board of Trustees may reject a Hearing Committee decision only after reviewing a transcription of the involved hearing.

STUDENT GRADE GRIEVANCE PROCEDURE

A student of the College may present a grade grievance. The California Education Code, Section 76224, quoted below, states clearly the conditions upon which grades or grading can be questioned.

“When grades are given for any courses of instruction taught in a community college district, the grade given to each student shall be determined by the instructor of the course and the determination of the student’s grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetence, shall be final.” “Mistake” may include, but is not limited to, errors made by an instructor in calculating a student’s grade and clerical errors.

STEP I – INDIVIDUAL ACTION

A student who believes a final course grade was assigned due to mistake, fraud, bad faith, or incompetence shall meet with the faculty member to resolve his or her concern.
Note: If a student files a grade grievance that includes an allegation of unlawful discrimination, including harassment or retaliation, the grievance, or portion of the grievance, will immediately be referred to (i) the Diversity/Compliance/Title IX Officer or to the Vice President of Human Resources or designee per AP 3435, "Intake and Processing of the Complaint" or to (ii) the Cerritos College Section 504/ADA Coordinator per AP 3412, for attempted informal resolution or investigation.

1. The student will obtain a Grade Grievance Form from the Office of Student Conduct and Grievance.

2. The student must return the Grade Grievance Form to the Office of Student Conduct and Grievance within 30 instructional days after the completion of the course about which the grade grievance is filed. An instructional day is defined as any day Monday through Friday that all normal college business is conducted, both in the classroom and in the administrative offices. All weekend days and college holidays are excluded.

3. The Student Conduct and Grievance Coordinator will meet with the student and review the completed Grade Grievance Form. If the student wishes to pursue the grievance, the Student Conduct and Grievance Coordinator will sign and date the Form. In the absence of the Coordinator, the Dean of Student Services will perform these duties.

4. The student will present a copy of the Grade Grievance Form to the applicable Division Dean. The Division Dean may schedule a meeting of all concerned if appropriate. The Division Dean should schedule a meeting only if the Form has the signature of the Student Conduct and Grievance Coordinator and is dated. In the absence of the Coordinator, the Dean of Student Services will meet with the Division Dean. The Division Dean shall make a recommendation to the parties within ten instructional days.

STEP III – ADMINISTRATIVE ACTION

If either party is dissatisfied with the recommendation of the Division Dean, he or she may appeal the matter to the Vice President of Academic Affairs or designee within ten instructional days of the Division Dean’s recommendation. The Vice President of Academic Affairs or designee shall call a meeting with the student, the ASCC Chief Justice, the Division Dean, and if needed, the faculty member. The Vice President of Academic Affairs or designee shall transmit his or her decision to the parties within ten instructional days.
STEP IV – PRESIDENT/SUPERINTENDENT ACTION

If either party chooses to appeal the decision of the Vice President of Academic Affairs, he or she may appeal the matter to the President/Superintendent of the College within ten instructional days of such decision. If a faculty member is dissatisfied with a recommendation and neither acts on it, nor appeals it, the Vice President of Academic Affairs will forward the matter to the President/Superintendent. The President/Superintendent will review the recommendation and if needed, request persons involved in the grievance to meet.

The President/Superintendent shall make a recommendation within ten instructional days. If either party is dissatisfied with the recommendation of the President/Superintendent, an appeal of the President/Superintendent’s recommendation may be submitted to the Board of Trustees by either party. The appeal must be submitted within ten instructional days after the President/Superintendent’s recommendation. The Board may review an appeal for two consecutive regular Board meetings, and if needed, request persons involved in the grievance to appear before making a final determination of the matter at the District level.

Also see AP 4231 titled Grade Changes

Office of Primary Responsibility: Vice President, Student Services

Date Approved: October 15, 2007